

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Xiangping Qian et al.)
U.S. Patent No.: 7,476,743)
Issued: January 13, 2009)
For: COMPOUNDS, COMPOSITIONS,) Confirmation No.: 1369
AND METHODS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR RECONSIDERATION OF PATENT
TERM ADJUSTMENT CALCULATION

The Office issued a Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction on April 20, 2010 ("the Decision"). The Office has determined that the patent term adjustment is **554** days and has afforded Patentee an opportunity to request reconsideration. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 C.F.R. § 1.322(a)(4).

Patentee hereby requests reconsideration of the patent term adjustment calculation in the Decision. The time to file a request for reconsideration expires on May 20, 2010. Therefore this Request is timely.

Specifically, Patentee respectfully submits that the total patent term adjustment should be **543** days rather than the **554** days as determined by the Office.

Patentee has calculated the total patent term adjustment of 543 days based on the following facts:

National Stage of U.S. Patent No. 7,476,743 ("the '743 patent") commenced on April 11, 2005.

The first Office Action was mailed on October 9, 2007, resulting in a PTO delay of 266 days beyond the 14 months provided by 35 U.S.C. § 154(b)(1)(A) and 37 C.F.R.

§ 1.702(a)(1). Patentee filed a response to the first Office Action on November 9, 2007, resulting in a Patentee delay of 0 days.

A second Office Action was mailed on January 15, 2008, resulting in a PTO delay of 0 days. Patentee filed a response to the second Office Action on April 8, 2008, resulting in a Patentee delay of 0 days.

A final Office Action was mailed on July 16, 2008, resulting in PTO delay of 0 days. Patentee filed a response to the final Office Action on September 15, 2008, resulting in a Patentee delay of 0 days.

A Notice of Allowance was mailed October 23, 2008 and the issue fee was paid on November 21, 2008. The '743 patent issued January 13, 2009. The three year pendency date for determination of patent term adjustment is April 11, 2008, thereby creating an additional USPTO delay of 277 days provided by 35 U.S.C. § 154(b)(1)(B) and 37 C.F.R. § 1.702(b).

The '743 patent is not subject to a terminal disclaimer. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

Accordingly, Patentee submits it is entitled to a total patent term adjustment of 543 days, including the USPTO delay of 266 days of delay accrued beyond the 14 months between filing date and first Office Action, and 277 days due to exceeding the three year pendency period, as described above.


Patentee respectfully requests that the Office reconsider the patent term adjustment calculation in the Decision and includes with this Request a fee of \$200.00 as specified by Section 1.18(e).

If there are any other fees due in connection with the filing of this Application,
please charge such fees to Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: May 20, 2010

By: 

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